

In re TURNER ET AL., Application No. 09/520,684  
Amendment C

### REMARKS

The final Office action dated August 18, 2004, and the reference cited have been fully considered. Please consider the following remarks and enter the following amendments as this response is being filed with a Request for Continued Examination (RCE). Reconsideration and further prosecution of the application is respectfully requested. The filing of the RCE is not an admission or other acquiescence of any rejection nor object, but rather the Office action was final, and Applicants desired to reword a few claims to avoid confusion.

Applicants appreciate the Office considering and entering Amendment C. Applicants however still believe the claims are patentable over the prior art of record, including Fan, and therefore Applicants respectfully traverse the rational set forth in rejecting all pending claims based on Fan (US Patent 5,337,308) for at least the reasons presented hereinafter and presented in Amendment C, which are hereby incorporated in their entirety by reference. However, applicants have elected to file the RCE and reword a few limitations and believe such amendments further identify differences between the teachings of Fan and the recited claims.

All claims stand rejected under 35 USC § 103(a) as being obvious over Fan, US Patent 5,337,308. Herein claims 28 and 33 are cancelled without prejudice, and independent claims 24, 29, 34 and 36 are amended to further emphasize and require that a determination is actually made that not one of the data packets has associated therewith the earliest timestamp value, and moreover, in response to this determination forwarding is always discontinuing of the data packets for the remaining duration of a current cell time. Support for such amendments is provided at least in FIG. 7 and the associated discussion.

In regards to the Office's statements in Paragraph 2 of the Office action, applicants respectfully submit that Fan neither teaches nor suggests the limitation of "in response to making a determination that not one of said data packets has associated therewith the earliest timestamp value, always discontinuing forwarding of said one or more data packets for the remaining duration of a current cell time" or means for such. There are two parts to this limitation - the

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"if()" part (i.e., in response to making a determination...) and the "then ()" part (i.e., always discontinuing forwarding...). To render obvious, Fan must teach both (and all other) limitations.

As admitted in Office action, Fan indiscriminately chooses a cell from an input buffer with the earliest time stamp. August 18, 2004, Office action, Paragraph 2. Thus, it does not identify whether it is a data or RT cell when selecting a cell with the earliest timestamp. When it does select an RT cell with an earliest timestamp, there may also be a data cell with the earliest timestamp value. Based on this selection, Fan does not identify that there is no data cell with the same timestamp value (and the claim limitation does not recite in response to selecting an RT cell with the earliest timestamp value). Applicants respectfully submit that Fan's indiscriminate selection of a cell with an earliest timestamp value, and the cell happens to be an RT cell is not equivalent to, and more importantly, neither teaches nor suggests (the MPEP requirement) "making a determination" that not one of the data packets has associated therewith the earliest timestamp value. Fan operates differently so it never makes (nor teaches or suggests) such an identification that no data cells has associated therewith the earliest timestamp. The selection by Fan of the RT cell identifies that the RT cell had the earliest timestamp value and there may or may not be a data cell with the earliest timestamp value. The claim requires that such a determination is made.

Next, these claims further require that some action happen in response to such determination - that being always discontinuing forwarding of said one or more data packets for the remaining duration of a current cell time (or means for such). In paragraph 3, the Office states that Fan may resume forwarding even if it discontinues forwarding during a current cell time. Therefore, Fan neither teaches nor suggests always discontinuing forwarding of said one or more data packets for the remaining duration of a current cell time (or means for such). Moreover, Fan neither teaches nor suggest always discontinuing ... *in response to* the determination that....

For at least these reasons, independent claims 24, 29, 34 and 36, and their respective dependent claims 25, 30, 35, and 37 are believed to be allowable.

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**Final Remarks.** In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over the prior art of record, the application is considered in good and proper form for allowance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney.

The Commissioner is hereby generally authorized under 37 C.F.R. § 1.136(a)(3) to treat this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 requiring an extension of time as incorporating a request therefore, and the Commissioner is hereby specifically authorized to charge Deposit Account No. 501430 for any fee that may be due in connection with such a request for an extension of time. Moreover, the Commissioner is hereby authorized to charge payment of any fee due any under 37 C.F.R. §§ 1.16 and § 1.17 associated with this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 or credit any overpayment to Deposit Account No. 501430.

Respectfully submitted,  
**The Law Office of Kirk D. Williams**

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By

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